



Costs Decision

Site visit made on 28 January 2025

by **C Livingstone MA(SocSci) (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 March 2025

Costs application in relation to Appeal Ref: APP/U5360/W/24/3352811

Top Flat, 70 Allen Road, London N16 8RZ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs Helen Doll for a full award of costs against the Council of the London Borough of Hackney.
 - The appeal was against the refusal of planning permission for a metal balustrade above part of the ground floor rear extension to facilitate the use of a private terrace for the top floor flat.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In claiming costs of the appeal, the applicant submits that the Council has acted unreasonably. This is because it did not raise concerns regarding the privacy of the occupants of neighbouring properties when refusing a previous application for planning permission, 2022/2208, for a roof terrace at the appeal site. As such the applicant asserts that this represents inconsistent decision making on the part of the Council and a shift in reasoning.
4. Planning Practice Guidance (PPG) gives advice as to when local planning authorities will be at risk of an award being made against them. The examples listed within the PPG are reflected in the grounds provided by the applicant. Which are assessed as follows.
5. Based on the evidence before me the roof terrace proposed under application 2022/2208 included a 1.7m high obscure glazed balustrade which enclosed the roof terrace. Due to the screening provided by the balustrade, the impact of the development on privacy was not a concern. The roof terrace proposed as part of the appeal scheme would be bound by much lower metal railings, which would not provide the equivalent overlooking and privacy mitigation.
6. Considering the above, the appeal scheme represents a materially different scheme to that proposed under 2022/2208 bringing with it different considerations.
7. Within its delegated report the Council provided a clear and reasoned justification for its decision, which was based on policies within the current development plan. As the proposal was contrary to the development plan, based on the officer's assessment during their site visit, it does not constitute development that 'should

clearly be permitted'. Therefore, if the applicant wished to seek an alternative outcome, they would have needed to submit an appeal in any case.

8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

C Livingstone

INSPECTOR